

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

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BABY DOE, A CITIZEN OF AFGHANISTAN	:	
CURRENTLY RESIDING IN NORTH	:	CIVIL ACTION NO. 3:22-CV-49
CAROLINA, BY AND THROUGH NEXT	:	
FRIENDS, JOHN AND JANE DOE;AND JOHN	:	
AND JANE DOE, CITIZENS OF AFGHANISTAN:	:	
AND LEGAL GUARDIANS OF BABY DOE,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
JOSHUA MAST, STEPHANIE MAST, RICHARD	:	
MAST, KIMBERLEY MOTLEY, AND AHMAD	:	
OSMANI,	:	
	:	
Defendants,	:	
	:	
and	:	
	:	
UNITED STATES SECRETARY OF STATE	:	
ANTONY BLINKEN AND UNITED STATES	:	
SECRETARY OF DEFENSE GENERAL	:	
LLOYD AUSTIN,	:	
	:	
Nominal Defendants.	:	

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DOE PLAINTIFFS’ MOTION, AND MEMORANDUM OF LAW IN SUPPORT OF
MOTION, TO SEAL EXHIBIT B TO MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFFS’ MOTION TO SEAL AMENDED COMPLAINT AND EXHIBIT

Plaintiffs, by counsel, respectfully move for leave to file under seal Exhibit B to their Memorandum in Support of Plaintiffs' Motion to Seal Amended Complaint and Exhibit¹, pursuant to Local Civil Rule 9, this Court's Protective Order (ECF No. 26), and the Court's Oral Order (ECF No. 71). In support thereof, Plaintiffs state as follows:

As set forth in Exhibit B to the Memorandum in Support of Plaintiffs' Motion to Seal Amended Complaint and Exhibit, Exhibit B is an order subject to a sealing order issued by the Circuit Court of the County of Fluvanna ("Sealed Circuit Court Proceeding"). Exhibit B allows the parties in the Sealed Circuit Court Proceeding to file in this matter filings, transcripts, documents and discovery from the Sealed Circuit Court Proceeding, so long as such documents are filed under seal in this matter.

In addition, Exhibit B to the Memorandum in Support of Plaintiffs' Motion to Seal Amended Complaint and Exhibit refers to Plaintiffs' given names. This Court has issued a Protective Order (ECF No. 26) allowing Plaintiffs to proceed under pseudonyms, given the concern for their safety and that of other innocent non-parties.

Under the common law right of access to judicial records, documents should be sealed when a party's interest in keeping the information contained therein confidential outweighs the presumed right of public access. *See, e.g. Stone v. Univ. of Maryland Med. Sys. Corp.*, 855 F.2d 178 (4th Cir. 1988); *Ashcroft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). "Courts have recognized that an interest in protecting the physical and psychological well-being of individuals related to the litigation, including family members and particularly minors, may justify restricting

¹ Plaintiffs previously emailed to the Court their Memorandum in Support of Plaintiffs' Motion to Seal Amended Complaint and Exhibit, but did not electronically file it via Pacer. Plaintiffs are filing it via Pacer contemporaneously with the filing of the instant motion.

access” to court documents. *United States v. Harris*, 890 F.3d 480, 492 (4th Cir. 2018); *see also* *United States v. Doe*, 962 F.3d 139, 147 (4th Cir. 2020).

In this instance, the judge in the Sealed Circuit Court Proceeding has ordered that all filings made in that proceeding be under seal and that, if they are filed in this matter, they must be filed under seal. In addition, the threats to the safety of the Plaintiffs and other innocent non-parties are very real, and have been recognized by this Court’s Protective Order (ECF No. 26).

Plaintiffs have publicly filed their Memorandum in Support of Plaintiffs’ Motion to Seal Amended Complaint and Exhibit (contemporaneously with the filing of this Motion). Thus, the public is not wholly deprived of an understanding of the general underlying factual basis for the request. The relief Plaintiffs seek in this motion is narrowly tailored to the circumstances, and aims to seal only what is absolutely necessary to safeguard the safety of persons related to the litigation. Defendants are not prejudiced as they are aware of Plaintiffs’ identities and are parties to and/or aware of the Sealed Circuit Court Proceeding.

Accordingly, Plaintiffs request that Exhibit B to their Memorandum in Support of Plaintiffs’ Motion to Seal Amended Complaint and Exhibit be filed under permanent seal, as the risks attendant to public disclosure of these documents is not likely to dissipate over time.

A proposed Order is attached as Exhibit A to this Motion.

Dated: November 2, 2022

Respectfully submitted,

/s/ Maya Eckstein

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of November 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

By: /s/ Maya M. Eckstein
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